

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES WHITAKER,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

CASE NO. C12-5591 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 19), and Plaintiff James Whitaker’s (“Whitaker”) objections to the R&R (Dkt. 20).

On July 22, 2013, Judge Strombom issued the R&R recommending that the Court affirm the Administrative Law Judge’s (“ALJ”) denial of benefits for Whitaker. Dkt. 19. Although Judge Strombom found that the ALJ erred in assessing Whitaker’s residual functional capacity, Judge Strombom concluded that the error was harmless because the omitted limitations do not alter Whitaker’s ability to perform past relevant work. *Id.* at 7–10. On August 5, 2013, Whitaker filed objections arguing that the issue should be

1 remanded for additional testimony by a vocational expert regarding the omitted
2 limitations. Dkt. 20.

3 The district judge must determine de novo any part of the magistrate judge's
4 disposition that has been properly objected to. The district judge may accept, reject, or
5 modify the recommended disposition; receive further evidence; or return the matter to the
6 magistrate judge with instructions.

7 On the issue of whether the ALJ's error was harmless, the Court agrees with Judge
8 Strombom. The record is sufficient to show that, even if the ALJ had included
9 Whitaker's climbing and exposure to vibration limitations, Whitaker has the capacity to
10 perform past relevant work as a lead maintenance machinist. There is no reason to
11 remand the matter for a vocational expert to provide testimony on what the Dictionary of
12 Occupational Titles clearly provides.

13 Therefore, the Court having considered the R&R, Whitaker's objections, and the
14 remaining record, does hereby find and order as follows:

- 15 (1) The R&R is **ADOPTED**;
16 (2) The ALJ's decision is **AFFIRMED**; and
17 (3) This action is **DISMISSED**.

18 Dated this 4th day of September, 2013.

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21 BENJAMIN H. SETTLE
22 United States District Judge